

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS**

**SAN ANTONIO DIVISION**

**FILED**

June 20, 2025

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

BY: RR  
DEPUTY

MATTHEW ANDREW GARCES,

*Plaintiff,*

v.

Case No. 5:25-CV-604-JKP-HJB

TRACY TORREZ (Operations Clerk, U.S. District Court), in her individual

capacity; *et. al.*,

*Defendants.*

**MOTION FOR RECUSAL OF MAGISTRATE JUDGE HENRY J.**

**BEMPORAD PURSUANT TO 28 U.S.C. § 455(a)**

TO THE HONORABLE U.S. CHIEF JUDGE ALIA MOSES OF THE WESTERN  
DISTRICT OF TEXAS:

Plaintiff MATTHEW ANDREW GARCES, *pro se*, respectfully moves this  
Court for the recusal of Magistrate Judge Henry J. Bemporad from all pending  
civil actions assigned to him, including the instant case, pursuant to 28 U.S.C. §  
455(a) and (b)(1). This motion is based on Judge Bemporad's demonstrated

personal bias against the Plaintiff and conduct creating a pervasive appearance of partiality that would cause a reasonable person to question his impartiality.

## I. LEGAL STANDARD

Under 28 U.S.C. § 455(a), a judge must recuse if their "impartiality might reasonably be questioned." Section 455(b)(1) mandates recusal where the judge has "a personal bias or prejudice concerning a party." The inquiry is objective: "Would a reasonable person, knowing all the circumstances, conclude that the judge's impartiality could reasonably be questioned?" *Liteky v. United States*, 510 U.S. 540, 548 (1994).

## II. FACTUAL GROUNDS FOR RECUSAL

Judge Bemporad's actions across multiple proceedings reveal a pattern of antagonism, prejudgment, and disregard for Plaintiff's rights, summarized below:

### A. BLATANT DISREGARD FOR PROCEDURAL RIGHTS

#### 1. Unauthorized Dismissal of Claims:

In 5:25-CV-00441-JKP-HJB, Judge Bemporad dismissed Plaintiff's claims "sua sponte" without notice or opportunity to respond, violating Fed. R. Civ. P. 12 and due process. This exceeds a magistrate's authority under 28 U.S.C. § 636(b)(1).

2. Refusal to Rule on Pending Motions:

Judge Bemporad has repeatedly ignored properly filed motions (e.g., motions for discovery, injunctive relief) for months, while expediting rulings favoring defendants.

B. DEMONSTRATIVE BIAS IN ORDERS AND HEARINGS

1. Demeaning Language:

Orders refer to Plaintiff's claims as "frivolous," "delusional," and "wasteful" without legal analysis. "See Order Docket Number 14". Such language signals personal contempt. "See *Liteky*, 510 U.S. at 555 (judge's "disdain" indicates bias)."

2. Ex Parte Communications:

In 5:25-CV-00081-JKP-HJB, Judge Bemporad adopted defendants' proposed orders verbatim within 24 hours while ignoring Plaintiff's objections.

C. SYSTEMATIC DENIAL OF ACCESS TO JUSTICE

1. Restriction of Filings:

Imposed punitive pre-filing restrictions without a hearing or evidence of abuse, violating "*Procup v. Strickland*", 792 F.2d 1069 (11th Cir. 1986).

2. Obstruction of Amendments:

Denied leave to amend complaints to assert valid claims, contrary to Fed. R. Civ. P. 15's mandate for freely granted amendments.

D. RETALIATORY CONDUCT

1. Sanctions Without Cause:

Threatened sanctions for non-frivolous filings, including a motion for judicial notice of controlling law.

2. Prejudgment of Cases:

Publicly dismissed Plaintiff's claims as "doomed to fail" confirming prejudgment and placed an order to STAY all my cases, including case number 5:25-CV-579-XR-HJB for my disability benefits.

III. LEGAL ANALYSIS

A reasonable observer would conclude Judge Bemporad harbors personal bias against Plaintiff, evidenced by:

- Pattern of Hostility: Consistent rulings adverse to Plaintiff across cases, coupled with pejorative language.
- Failure to Follow Law: Repeated disregard for procedural rules and precedent.

- Appearance of Impropriety: Rapid rulings for defendants vs. indefinite delays for Plaintiff.
- “*Liteky*” holds that "expressions of impatience, dissatisfaction, or annoyance" may cross into bias if "so extreme as to display clear inability to render fair judgment." 510 U.S. at 555–56. Judge Bemporad’s conduct meets this threshold.

#### IV. CONCLUSION

Plaintiff respectfully requests that Magistrate Judge Henry J. Bemporad be recused from all pending civil actions involving Plaintiff pursuant to 28 U.S.C. § 455. The documented pattern of bias and appearance of partiality mandates this result to preserve judicial integrity and due process.

DATED: JUNE 20, 2025

Respectfully submitted,

A handwritten signature in cursive script, reading "Matthew Garces", is written over a horizontal line.

MATTHEW ANDREW GARCES

*Pro Se Plaintiff*

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CERTIFICATE OF SERVICE

I hereby certify that on JUNE 20, 2025, this motion was served via the Court's CM/ECF system on all counsel of record.

A handwritten signature in cursive script, reading "Matthew Garcés", is written over a horizontal line.

MATTHEW ANDREW GARCES

*Pro Se Plaintiff*